

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LINEAR GROUP SERVICES, LLC,

Plaintiff,

vs.

Case No. 13-10108
HON. GERSHWIN A. DRAIN

ATTICA AUTOMATION, INC.,

Defendant,

vs.

ND INDUSTRIES, INC.,

Counter-Defendant.

/

**ORDER DENYING PLAINTIFF'S MOTION FOR PARTIAL RECONSIDERATION
REGARDING CLAIM CONSTRUCTION [#64]**

On February 12, 2014, this Court entered an order regarding claim construction. See Dkt. No. 60. This Court's February 12, 2014 Order concluded that the three terms at issue should be given their ordinary and customary meanings. *Id.* at 14. Plaintiff now moves for partial reconsideration of this Court's February 12, 2014 decision.

Local Rule 7.1(g)(3) of the Local Rules of the United States District Court for the Eastern District of Michigan provides:

[M]otions for rehearing or reconsideration which merely present the same issues ruled upon by the court, either expressly or by reasonable implication, shall not be granted. The movant shall not only demonstrate a palpable defect by which the court and the parties have been misled but also show that a different disposition of the case must result from a correction thereof.

E.D. Mich. L.R. 7.1(g)(3). "A 'palpable defect' is 'a defect that is obvious, clear,

unmistakable, manifest, or plain.” *United States v. Lockett*, 328 F. Supp. 2d 682, 684 (E.D. Mich. 2004) (citing *United States v. Cican*, 156 F. Supp. 2d 661, 668 (E.D. Mich. 2001)). “[A] motion for reconsideration is not properly used as a vehicle to re-hash old arguments or to advance positions that could have been argued earlier but were not.” *Smith ex rel. Smith v. Mount Pleasant Pub. Sch.*, 298 F. Supp. 2d 636, 637 (E.D. Mich. 2003) (citing *Sault Ste. Marie Tribe of Chippewa Indians v. Engler*, 146 F.3d 367, 374 (6th Cir. 1998)).

Contrary to Plaintiff’s argument, this Court was not mislead by Attica’s position, nor did the Court erroneously use the specification to broaden the scope of the claim. Plaintiff has failed to demonstrate a palpable defect by which this Court has been mislead, the correction of which will result in a different disposition of this case.

Accordingly,

Plaintiff’s Motion for Partial Reconsideration [#64] is DENIED.

SO ORDERED.

Dated: March 12, 2014

/s/Gershwin A Drain
GERSHWIN A. DRAIN
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
March 12, 2014, by electronic and/or ordinary mail

/s/ Tanya Bankston
Deputy Clerk